

CALIFORNIA EMPLOYER

Third Quarter 2006

Are you in construction? Do you use subcontractors?

Misunderstandings about whether a worker is an employee can lead to unexpected tax liabilities

Did you know that under California law, subcontractors and unlicensed construction workers may be your employees and your payments for their services may be wages?

Misunderstandings about the status of workers and payments can result in unexpected tax liabilities for employers.

Under California Unemployment Insurance Code (CUIC) Sections 621.5 and 13004.5:

- Subcontractors and construction workers without valid contractor's licenses are statutory employees of the contractor who either holds a license or is required to be licensed.
- To be considered independent contractors, subcontractors and construction workers must possess valid contractor's licenses for the specific work being performed.



- Payments are wages paid to statutory employees under Sections 621.5 and 13004.5 (CUIC) and are subject to Unemployment Insurance, State Disability Insurance, Employment Training Tax and Personal Income Tax Withholding.

For additional information, refer to the *Information Sheet: Construction Industry* (DE 231G) at www.edd.ca.gov/taxrep/taxform.htm#Publications. Or call us at 888-745-3886.

Contractor's licenses can be verified 24 hours-a-day on the Contractor's State License Board Web site, www.cslb.ca.gov. The *Description of Classifications* pamphlet is an essential resource for any contractor. It is also available on the CSLB Web site under Services and Publications. This pamphlet lists construction services that require a contractor's license.

Seminars answer payroll tax questions

We offer no-cost seminars to help you understand and comply with California payroll tax laws. Our payroll tax seminars are customized to benefit everyone – established businesses, individuals who are planning to start a business or just getting started in business, bookkeepers and payroll agents. Our State Wage, Hour and Payroll Tax Seminars and Federal/State Basic Payroll Tax Seminars are listed below. Other seminars include "How to Manage Unemployment Insurance Costs," "Employee or Independent Contractor," "Avoiding State Payroll Reporting Errors," and Basic Payroll Tax Seminars. Seminars can be customized to meet your organization's specific needs. For a complete list and to register for a seminar, visit our Web site at www.edd.ca.gov/taxsem, or call our Taxpayer Assistance Center at 888-745-3886.

State Wage, Hour and Payroll Tax Seminars include reporting requirements and common wage and hour law application.

Bakersfield	11/8/06	San Bernardino	10/26/06
Eureka	12/5/06	San Jose	11/07/06
Fresno	10/12/06	Santa Rosa	11/15/06
Oakland	10/16/06	Van Nuys	12/1/06

Federal/State Basic Payroll Tax Seminars cover federal payroll information, as well as, state basic payroll information. They will be held at these locations:

Chino	11/07/06	Oakland	12/06/06	San Jose	11/21/06
Hanford	10/26/06	Sacramento	10/05/06	San Jose	12/19/06
Hawthorne	11/08/06	Sacramento	12/07/06	Van Nuys	12/08/06
Indio	11/28/06	Salinas	11/08/06	Visalia	11/16/06
Inglewood	11/17/06	San Bernardino	10/24/06	Walnut Creek	11/02/06
Oakland	10/25/06	San Francisco	11/17/06	West Los Angeles	12/13/06
		San Jose	10/17/06		

Review your reserve account statement of charges carefully

In October, an annual *Statement of Charges to Reserve Account* DE428T will be mailed to you. This statement notifies you of the unemployment insurance (UI) benefit charges and credits to your reserve account during the previous fiscal year (July 1, 2005 through June 30, 2006).

Charges are itemized and based on the UI benefits paid to your former employees. Because charges to your reserve account may increase your UI contribution rate, it is important to review your statement carefully and respond in a timely manner if you do not agree with the charges.

You have 60 days from the mail date of the DE428T to protest any charges that you believe are incorrect. An extension of up to an additional 60 days may be granted for good cause.

For further information, refer to the *Explanation and Instruction Sheet*, DE 428C, included with the DE 428T, or call 916-653-7795. The DE 428C is also available on our Web site at www.edd.ca.gov/taxrep/de428c.pdf.

Find out more about jobs, wages

Visit Labor Market Information Division's new Web site

Find information about jobs and wages faster than ever. Just go to www.labormarketinfo.edd.ca.gov, the Labor Market Information Division's improved Web site. Use the site to:

- Develop announcements of job openings using the Occupation Profile that details job descriptions, wages, skills, and more.
- Compare average local wages for occupations, based upon surveys of employers in your area.
- Get a local area profile for any county. The profile includes information that is particularly helpful for businesses planning to expand: the unemployment rate, industry employment data, consumer price index, building activity, and more.
- Track industry and occupational growth trends for more help with your business planning.
- Create demographic profiles for affirmative action planning required for government contracts.

• Connect to information on job openings available on America's Job Bank and CalJOBSSM. Post your own job orders at these sites.

• Find training programs for your workers or recruitment sources for new workers.

• Read articles on current labor market issues.

• Find a portal page targeted for you as an employer.

You can create a personal "My LMInfo" page and have available in one convenient location the information you want the most. To create your customized page:

- Go to www.labormarketinfo.edd.ca.gov and click on "My LMInfo."
- Click on the "New User? Sign Up" link on the left navigation bar.

- Fill in your information.

That's all you need to do. Your information is strictly confidential.

Once you register, you will be able to:

- Save data queries that you may want to use again. The data will update automatically when new data is made available. You won't have to go through the data selection process again.
- Select your areas of interests so that we may provide articles to you automatically based on your interest profile.
- Save your favorite articles or publications.

For more information contact your local Labor Market Consultant who is listed at www.calmis.ca.gov/file/resource/LMIConsultants.pdf.

Get Expert Assistance at a Small Business Fair

Small Business Fairs offer workshops on tax and business requirements on the federal, state and local levels. All fairs are free, but reservations are recommended.

For more information, visit the State Board of Equalization Web site at www.boe.ca.gov/sutax/tpsched.htm.

On October 13, a Small Business Fair will be held from 8:30 a.m. to 3 p.m. at the Marin Center, 10 Avenue of the Flags, San Rafael.

Call 707-576-2300 or register at marinsbf@boe.ca.gov

Do you have a payroll tax liability? We can help.

Work with EDD to resolve the liability, avoid costly legal bills, accrued interest, or a lengthy hearing process. Two programs that may be available to employers who want to pay their tax liabilities are Offer in Compromise (OIC) and Settlements. The following will help you understand the differences between these two programs.

Offer in Compromise

- Enables a qualified inactive (out-of-business) employer to satisfy a **final** tax liability at less than full value.
- The offer is based on the ability to pay and must be more than EDD could expect to collect through involuntary means within four years of the time the offer is made.
- The law does not allow for cases involving fraud and/or criminal violation to be compromised.

For additional information, refer to the *Information Sheet: Offers in Compromise* (DE 631C) at www.edd.ca.gov/taxrep/taxform.htm#Publications or contact the OIC Unit at 916-464-2739.

Settlement

- A compromise on the dollar amount of a tax liability, consistent with the reasonable evaluation of the costs and risks associated with litigation of the issue(s).
- Liability is petitioned (disputed) with the California Unemployment Insurance Appeal Board or before a civil court.
- Employer may be active (in business) or inactive (out of business).
- The offer is based on the risks and costs of litigation and must include the basis of the offer, including the amount and terms.
- In general, cases involving fraud and/or criminal violation(s) are not eligible for settlement.

For additional information, refer to *Information Sheet: Settlement Program* (DE 231SP) at www.edd.ca.gov/taxrep/taxform.htm#publications or contact the Settlements Office at 916-653-9130.

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